

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEXTER WALLACE,

Petitioner,

v.

Case Nos. 08-CV-12456

KENNETH MCKEE,

Respondent.

/

**ORDER GRANTING THE MOTION TO AMEND AND ORDERING RESPONDENT TO
ANSWER THE AMENDED PETITION**

Before the court is Petitioner Dexter Wallace's motion to amend his June 9, 2008 petition for habeas corpus. Having reviewed the motion, the court will grant it.

A party may amend his pleading "once as a matter of course before being served with a responsive pleading." Fed.R.Civ.P. 15(a)(1)(A). Here, Petitioner filed his petition on June 9, 2008, and Respondent's answer was filed on December 16, 2008. Although the motion to amend was docketed on June 30, 2009, the motion was first filed in this court on September 22, 2008.¹ Thus, Petitioner filed his motion to amend before being served with a responsive pleading and his amendment will be allowed as a matter of course. Accordingly,

IT IS ORDERED that Petitioner's motion to amend [Dkt. # 9] is GRANTED, and the proposed amended petition, which is attached to the motion to amend, is deemed filed.

¹The motion was incorrectly docketed as a new petition and a new case, 08-CV-14067, was opened. The motion was recently transferred to this docket by separate order.

IT IS FURTHER ORDERED that Respondent shall file a supplemental brief to the amended petition, along with any additional Rule 5 materials, within **thirty (30) days** from the date of this order.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: July 2, 2009

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, July 2, 2009, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522

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